

**ASSEMBLY BILL**

**No. 1935**

**Introduced by Assembly Member Bermudez**

February 1, 2006

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An act to amend Sections 765.5 and 7711 of, and to add Sections 1202.7, 2115.1, 7662, and 7711.1 to, the Public Utilities Code, relating to railroads, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1935, as introduced, Bermudez. Railroads: maintenance and safety.

(1) Existing law requires the Public Utilities Commission to inspect railroad locomotives, equipment, and facilities located in class I railroad yards in California not less frequently than every 180 days, and inspect all branch and main line track not less frequently than every 12 months.

This bill would require that the inspection of railroad equipment and operating procedures occur not less frequently than every 120 days, and the inspection of branch and main line track, and operating procedures occur not less frequently than every 6 months.

(2) Existing law establishes the safety division of the commission. The safety division is responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description, by rail.

This bill would require that usable, functioning automatic grade crossing safety equipment that is removed because of improvement or

upgrade work be installed at a crossing that does not have an automatic warning device.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because this provision of this bill would be a part of the act, the bill would impose a state-mandated local program by creating a new crime.

(3) Existing law authorizes the commission, whenever the commission determines that a railroad corporation has violated any order of the commission concerning the adequacy, condition, or safety of the corporation's cars or tracks or any related fixture or appliance, to impose a fine for each violation or day a violation continues uncorrected.

This bill would require that the commission develop a citation process for violations subject to fines pursuant to this provision.

(4) Existing law requires the commission to require every railroad corporation operating in this state to develop, in consultation with, and with the approval of, the Office of Emergency Services, a protocol for rapid communications with that office, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area if there is a runaway train or any other uncontrolled train movement that threatens public health and safety. Existing law requires a railroad corporation to promptly notify the office, the department, and the public safety agencies, through a communication to the warning center of the office, if there is a runaway train or other uncontrolled train movement threatening public safety, in accordance with the developed communications protocol.

This bill would require the California Highway Patrol or a designated county public safety agency that responds to a railroad accident to report the accident to the Office of Emergency Services and to the commission. By placing additional reporting requirements upon county public safety agencies, the bill would impose a state-mandated local program.

(5) Existing law requires the commission to annually report to the Legislature on sites on railroad lines in the state that it finds to be hazardous, including a list of all commodities transported on railroad lines that could pose a hazard to the public or the environment in the event of a train derailment or other accident, a description of the quantities of these commodities, and the locations and routes that these materials are transported, and a list of all railroad derailment

accident sites in the state on which accidents have occurred within at least the previous 5 years.

This bill would require the annual report to include a list of the root causes and significant contributing factors of all train accidents or derailments investigated.

The bill would require the commission to collect and analyze “near miss” data generated from incidents occurring at railroad crossings and along the rail right-of-way, including data relative to runaway trains or any other uncontrolled train movements that threaten public health and safety reported to the commission pursuant to the bill.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 765.5 of the Public Utilities Code is
- 2 amended to read:
- 3 765.5. (a) The purpose of this section is to provide that the
- 4 commission takes all appropriate action necessary to ensure the
- 5 safe operation of railroads in this state.
- 6 (b) The commission shall dedicate sufficient resources
- 7 necessary to adequately carry out the State Participation Program
- 8 for the regulation of rail transportation of hazardous materials as
- 9 authorized by the Hazardous Material Transportation Uniform
- 10 Safety Act of 1990 (P.L. 101-615).
- 11 (c) On or before July 1, 1992, the commission shall hire a
- 12 minimum of six additional rail inspectors who are or shall
- 13 become federally certified, consisting of three additional motive

1 power and equipment inspectors, two signal inspectors, and one  
2 operating practices inspector, for the purpose of enforcing  
3 compliance by railroads operating in this state with state and  
4 federal safety regulations.

5 (d) On or before July 1, 1992, the commission shall establish,  
6 by regulation, a minimum inspection standard to ensure, at the  
7 time of inspection, that railroad locomotives, equipment and  
8 facilities located in ~~Class~~ *class* I railroad yards in California will  
9 be inspected not less frequently than every ~~180~~ 120 days, and  
10 inspection of all branch and main line track not less frequently  
11 than every ~~12~~ six months.

12 SEC. 2. Section 1202.7 is added to the Public Utilities Code,  
13 to read:

14 1202.7. Whenever usable, functioning automatic grade  
15 crossing safety equipment is removed from, and not reinstalled  
16 at, a railroad crossing because of improvement or upgrade work,  
17 rather than be discarded, the removed equipment shall be  
18 installed at a railroad crossing that does not have an automatic  
19 warning device.

20 SEC. 3. Section 2115.1 is added to the Public Utilities Code,  
21 to read:

22 2115.1. The commission shall develop a citation process for  
23 violations of Section 2115.

24 SEC. 4. Section 7662 is added to the Public Utilities Code, to  
25 read:

26 7662. Whenever the California Highway Patrol or a  
27 designated county public safety agency responds to a railroad  
28 accident, the accident shall be reported to the Office of  
29 Emergency Services and to the commission.

30 SEC. 5. Section 7711 of the Public Utilities Code is amended  
31 to read:

32 7711. ~~On or before July 1, 1992, Annually~~ and on or before  
33 July 1 ~~annually thereafter~~, the commission shall report to the  
34 Legislature on sites on railroad lines in the state it finds to be  
35 hazardous. The report shall include, but not be limited to,  
36 information on all of the following:

37 (a) A list of all railroad derailment accident sites in the state on  
38 which accidents have occurred within at least the previous five  
39 years. The list shall describe the nature and probable causes of  
40 the accidents, if known, and shall indicate whether the accidents

1 occurred at or near sites that the commission, pursuant to  
2 subdivision (b), has determined pose a local safety hazard.

3 (b) A list of all railroad sites in the state that the commission,  
4 pursuant to Section 20106 of Title 49 of the United States Code,  
5 determines pose a local safety hazard. The commission may  
6 submit in the annual report the list of railroad sites submitted in  
7 the immediate prior year annual report, and may amend or revise  
8 that list from the immediate prior year as necessary. Factors that  
9 the commission shall consider in determining a local safety  
10 hazard may include, but need not be limited to, all of the  
11 following:

12 (1) The severity of grade and curve of track.

13 (2) The value of special skills of train operators in negotiating  
14 the particular segment of railroad line.

15 (3) The value of special railroad equipment in negotiating the  
16 particular segment of railroad line.

17 (4) The types of commodities transported on or near the  
18 particular segment of railroad line.

19 (5) The hazard posed by the release of the commodity into the  
20 environment.

21 (6) The value of special railroad equipment in the process of  
22 safely loading, transporting, storing, or unloading potentially  
23 hazardous commodities.

24 (7) The proximity of railroad activity to human activity or  
25 sensitive environmental areas.

26 (8) *A list of the root causes and significant contributing*  
27 *factors of all train accidents or derailments investigated.*

28 (c) In determining which railroad sites pose a local safety  
29 hazard pursuant to subdivision (b), the commission shall consider  
30 the history of accidents at or near the sites. The commission shall  
31 not limit its determination to sites at which accidents have  
32 already occurred, but shall identify potentially hazardous sites  
33 based on the criteria enumerated in subdivision (b) and all other  
34 criteria that the commission determines influence railroad safety.  
35 The commission shall also consider whether any local safety  
36 hazards at railroad sites have been eliminated or sufficiently  
37 remediated to warrant removal of the site from the list required  
38 under subdivision (b).

39 SEC. 6. Section 7711.1 is added to the Public Utilities Code,  
40 to read:

1 7711.1. The commission shall collect and analyze near miss  
2 data generated from incidents occurring at railroad crossings and  
3 along the rail right-of-way. For purposes of this section, “near  
4 miss” includes a runaway train or any other uncontrolled train  
5 movement that threatens public health and safety reported to the  
6 commission pursuant to Section 7661.

7 SEC. 7. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution for  
9 certain costs that may be incurred by a local agency or school  
10 district because, in that regard, this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the  
12 penalty for a crime or infraction, within the meaning of Section  
13 17556 of the Government Code, or changes the definition of a  
14 crime within the meaning of Section 6 of Article XIII B of the  
15 California Constitution.

16 However, if the Commission on State Mandates determines  
17 that this act contains other costs mandated by the state,  
18 reimbursement to local agencies and school districts for those  
19 costs shall be made pursuant to Part 7 (commencing with Section  
20 17500) of Division 4 of Title 2 of the Government Code.

21 SEC. 8. This act is an urgency statute necessary for the  
22 immediate preservation of the public peace, health, or safety  
23 within the meaning of Article IV of the Constitution and shall go  
24 into immediate effect. The facts constituting the necessity are:

25 Five train derailments have occurred in less than two years,  
26 three of them occurring in the span of one month. This is part of  
27 a disturbing trend across California. The number of train  
28 accidents has increased exponentially since 1997. In 1997, there  
29 were 105 train accidents. By 2003, there were 187. In 2005 the  
30 state was projected to have 228 train accidents. Because there is  
31 a need to resolve this problem now, in order to keep Californians  
32 safe, it is necessary that this act go into immediate effect.